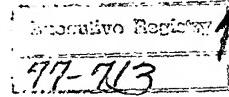


EXECUTIVE OFFICE OF THE PRESIDENT
ENERGY POLICY AND PLANNING
WASHINGTON, D.C. 20500

March 10, 1977



NOTE TO Admiral Stansfield Turner, USN

James R. Schlesinger has asked that the attached legislative package presented to the Congress by the President creating the Department of Energy be forwarded to you for your information.

Pagnotta
Frank R. Pagnotta

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3/10/77

Attachments

*Schlesinger/Melvin
Bob*

EMBARGOED FOR RELEASE
UNTIL 12:00 NOON, EST

March 1, 1977

Office of the White House Press Secretary

THE WHITE HOUSE

TO THE CONGRESS OF THE UNITED STATES:

I hereby transmit to the Congress proposed legislation which will create a new Cabinet Department of Energy.

This legislation is a major step in my Administration's program for a comprehensive reorganization of the Executive Branch.

Nowhere is the need for reorganization and consolidation greater than in energy policy. All but two of the Executive Branch's Cabinet departments now have some responsibility for energy policy, but no agency, anywhere in the Federal government, has the broad authority needed to deal with our energy problems in a comprehensive way.

The legislation I am submitting today will bring immediate order to this fragmented system:

-- It will abolish the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission, thereby eliminating three agencies whose missions overlap and sometimes conflict, and whose specialized perspectives have impeded progress toward a unified energy policy.

-- It will allow us, for the first time, to match our research and development program to our overall energy policies and needs. This is particularly important if we are to make use of renewable energy sources such as solar power.

-- It will enable us to move more quickly toward effective energy conservation by combining conservation programs which are now split between FEA and ERDA. And, to make certain that we will see results, the legislation creates an Assistant Secretary for Conservation, who will be personally responsible for seeing that the conservation program is carried out.

-- It will place under one roof the powers to regulate fuels and fuel distribution systems, powers which are now shared by the FEA and the FPC along with the Securities and Exchange Commission and the Interstate Commerce Commission. An institutional structure built on the premise that fossil fuels are abundant and cheap no longer serves well in an era of fuel scarcity.

As this winter has shown us, uncoordinated regulatory policies can have serious impacts on our economic and social well-being. This reorganization can help us bring currently fragmented policies into a structure capable of both developing and implementing an overall national energy plan. At the same time, we must guard the quasi-judicial aspects of the

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regulatory process against improper influence. The legislation meets this concern by establishing a Board of Hearings and Appeals within the Department which is free from the control of the Secretary of Energy.

In addition to abolishing the FEA, ERDA, and the FPC, the legislation submitted today will transfer into the new Department several significant energy-related authorities and programs which now belong to other departments. These include the building thermal efficiency standards from Housing and Urban Development, the voluntary industrial compliance program from Commerce, and the Navy petroleum and oil shale reserves from Defense. The legislation provides for consultation between the Energy Department and the Department of Transportation on auto fuel efficiency standards, and establishes a role for the Energy Secretary in the REA loan program at Agriculture. Where it is appropriate, these departments will still carry out the program, but the new Energy Department will give them the policy guidance needed to bring unity and rational order to our energy program.

Finally, this legislation transfers certain parts of the Interior Department -- those concerning fuels data collection and analysis, and coal mine research and development -- into the new Department. Coal mine health and safety research will not be transferred. This will leave the Department of Interior still in charge of leasing energy resources under Federal control. We are leaving those functions in Interior because we believe that the responsibility for multiple-use of public lands, and for their environmental protection, belongs in one department -- Interior -- that can reflect a broad spectrum of concern. The Energy Department, however, will set long-term production goals and will have policy control over economic aspects of the leases. This will help us foster competition within the energy industries and encourage production of leased resources as expeditiously as possible.

This reorganization will also bring together our energy data gathering and analysis capabilities. More than twenty executive departments and agencies now operate more than 250 energy data programs. The FEA, ERDA, FPC and the Interior Department's Bureau of Mines together have more than 100 such programs. This fragmentation is not only uneconomic and frustrating: it can also have serious consequences. We have seen in recent weeks that, under our present system, we have no single source of information about where natural gas shortages were greatest and where supplies were still available to help make up those shortages. Consolidating these major data programs in an Energy Information Administration within the new department will now give us the ability to compile information which is complete, accurate and believable.

There are many things this legislation does not try to do.

I believe that health, safety and environmental regulation relating to energy -- unlike economic regulation -- should not be brought into the new Energy Department. Because public

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concerns about the safety of nuclear power are so serious, we must have a strong, independent voice to ensure that safety does not yield to energy supply pressures. Therefore, the Nuclear Regulatory Commission will remain as an independent body. For similar reasons, the Environmental Protection Agency should remain independent to voice environmental concern.

Even with a new Department of Energy, problems of inter-departmental coordination will remain, since virtually all government activity affects energy to some extent. Establishing this department, however, will give us one government body with sufficient scope and authority to do the massive job that remains to be done. Thus this legislation will abolish the Energy Resources Council. I intend to establish by Executive Order a non-statutory interdepartmental coordinating body, with the Secretary of Energy as its chairman to manage government-wide concerns involving energy.

This legislation contains no new substantive authorities. Instead, by eliminating three agencies and uniting a variety of existing energy authorities, the legislation I am submitting today will help reorganize the Executive Branch in a rational, orderly way. It is long overdue. I hope to work with the Congress to achieve our initial goal of a realistic and effective energy policy.

JIMMY CARTER

THE WHITE HOUSE,

March 1, 1977.

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EMBARGOED FOR RELEASE UNTIL
NOON, TUESDAY 1 MARCH

MARCH 1, 1977

Office of the White House Press Secretary

THE WHITE HOUSE

A BILL

To establish a Department of Energy in the Executive Branch by the reorganization of energy functions within the Federal government in order to secure effective management to assure a coordinated National energy policy and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That this Act may be cited as the "Department of Energy Organization Act".

TITLE I

DECLARATION OF PURPOSES

Sec. 101. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are vested in or transferred to him by this Act, (3) to achieve, through the Department, effective management of energy functions of the federal government, and (4) to provide the mechanism through which a coordinated National energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation.

TITLE II

ESTABLISHMENT OF DEPARTMENT

Sec. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

Sec. 202. There shall be in the Department a Deputy Secretary, two Under Secretaries, eight Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. One of the Assistant Secretaries specified by this section shall be an Assistant Secretary for Conservation, another shall be an Assistant Secretary for Environment and another shall be an Assistant Secretary for Energy Technology.

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Sec. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine) the functions vested in him by law to gather energy information (as defined in section 51(c) of the Federal Energy Administration Act of 1974), and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of the delegated function.

Sec. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer--

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301 of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401(a)); and

(3) such other functions as the Secretary may consider appropriate.

TITLE III

TRANSFERS OF FUNCTIONS

Sec. 301. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration, and the Federal Power Commission or the Chairman and members of the Commission; and the functions vested by law in the officers and components of either such Administration or in the Commission.

Sec. 302. There are hereby transferred to and vested in the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration,

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(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to or are utilized by the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy; provided, that the authority for and function of operating the dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior; and provided, further, that the Secretary and the Secretary of the Interior may enter into an agreement whereby functions transferred in this subsection shall be performed by the Department of the Interior in which case employees required for such performance shall be retained by the Department of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including but not limited to the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 363 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the (A) fostering of competition for Federal leases (including but not limited to prohibition on bidding for development rights by certain types of joint ventures), (B) implementation of alternative bidding systems authorized for the award of Federal leases, (C) establishment of diligence requirements for operations conducted on Federal leases (including but not limited to procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (D) setting rates of production for Federal leases, and (E) specifying the procedures, terms and conditions for the acquisition and disposition of Federal royalty interests taken in kind; provided, that such regulations

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shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The President shall issue an Executive Order specifically describing the authorities transferred by this subsection. Such order may provide that the Secretary and the Secretary of the Interior may enter into one or more agreements specifying which Secretary has authority to issue particular regulations, and may provide that the President may confirm the authority of either Secretary to prescribe a particular regulation.

(3) A regulation prescribed by the Secretary under any authority transferred under this subsection may not be set aside on the ground that authority to issue such regulation was not so transferred if, under such Executive Order (or an agreement or confirmation thereunder), the Secretary has authority to prescribe such regulation.

(4) A regulation of the Secretary of the Interior may not be set aside on the ground that authority to issue such regulation was transferred to the Secretary by this subsection, if, under such Executive Order (or any agreement or confirmation thereunder) the Secretary of the Interior has authority to issue such regulation.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities, exercised by the Bureau of Mines, but limited to:

(1) fuel supply and demand analysis and data gathering,

(2) research and development relating to increased efficiency of production technology of solid fuel minerals; provided, that research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining shall remain in the Department of the Interior, and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

Sec. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary. The Executive Order issued

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under section 302(d)(2) shall prescribe the manner in which the Secretary shall be afforded such opportunity to disapprove.

Sec. 304. (a) As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, in consideration of bonuses, rents or royalties conferred and covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, or producing, or any or all of these, oil and gas, coal, oil shale, tar sands, and geothermal resources on lands or interests in lands under Federal jurisdiction.

Sec. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by Part E of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

Sec. 306. Except as provided in section 712(q), there are hereby transferred to and vested in the Secretary all functions vested in the Securities and Exchange Commission, or the Chairman or the members thereof, under the provisions of the Public Utility Holding Company Act of 1935, and under the provisions of Reorganization Plan No. 10 of 1950 and Public Law 87-592, as approved August 20, 1962, insofar as said Reorganization Plan and Public Law 87-592 relate to the administration of the Public Utility Holding Company Act of 1935.

Sec. 307. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

Sec. 308. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil and coal by pipeline.

Sec. 309. There are hereby transferred to and vested in the Secretary all functions vested by Chapter 641 of title 16, United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to and vested in the Secretary jurisdiction over--

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive Order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Euera Vista), located in Kern County, California, established by Executive Order of the President, dated December 13, 1912;

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(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive Order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive Order of the President, dated December 6, 1916, as amended by Executive Order dated June 12, 1918;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive Order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive Order of the President, dated September 27, 1974.

Sec. 310. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

TITLE IV

BOARD OF HEARINGS AND APPEALS

Sec. 401. (a) (1) There is hereby established within the Department a Board of Hearings and Appeals (hereinafter referred to in this title as the "Board").

(2) The Board shall have jurisdiction

(A) to hear and determine matters arising under any function vested in or delegated to the Secretary involving--

(i) any agency determination required by law to be made on the record after opportunity for an agency hearing, or

(ii) any other agency determination which the Secretary determines shall be made on the record after opportunity for agency hearing, or

(B) to consider any other matter which the Secretary may assign to the Board by rule.

(b) The Board shall be comprised of three members appointed by the President by and with the advice and consent of the Senate. One of the members shall be designated by the President as Chairman. Members shall hold office for a term of four years and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The terms of the members

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first taking office shall expire (as designated by the President at the time of appointment), one at the end of two years, one at the end of three years, and one at the end of four years. Not more than two members of the Board shall be members of the same political party. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(c) The Chairman of the Board shall exercise the executive and administrative functions of the Board, including functions of the Board with respect to (1) the supervision of personnel employed by or assigned to the Board; provided, that each member of the Board may select and supervise personnel for his personal staff, (2) the distribution of business among personnel and among administrative units of the Board, and (3) the use and expenditure of funds appropriated or made available to the Board.

(d) In the performance of their functions, the members of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department.

(e) A decision of the Board shall be final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Board's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(f) The Chairman of the Board may from time to time designate any other member of the Board as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board and a quorum for the transaction of business shall consist of at least two members present. Each member of the Board, including the Chairman, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

(g) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions.

(h) In carrying out its functions, the Board shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

Sec. 402. (a) No person in the employ of or holding any official relation to any person, firm, association, or

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corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, natural gas, coal, or nuclear material, or owning stock or bonds thereto, or who has a pecuniary interest therein, shall enter upon the duties of or hold the office of Board member. Members shall not engage in any other business, vocation, or employment.

(b) The principal office of the Board shall be in or near the District of Columbia, where its general sessions shall be held; but the Board may sit anywhere in the United States.

TITLE V

ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 5. (a) Subject to the other requirements of this section, the provisions of subchapter II of Chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule, regulation, or order issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule or regulation shall be given by publication of such proposed rule or regulation in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule or regulation. In addition, public notice of all rules or regulations described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules or regulations in at least two newspapers of statewide circulation, provided that if such publication is not practicable, notice of any rule or regulation shall be given by such other means as the officer promulgating such rule or regulation determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule or regulation described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule or regulation but in all cases such opportunity shall be afforded

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no later than forty-five days after the issuance of any such rule or regulation. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation or order.

(e)(1) With respect to any rule or regulation of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to--

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C), as the case may be.

(2) For purposes of this subsection--

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f)(1) Judicial review of agency action taken under any law the functions of which are transferred to the

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Secretary by this Act shall, notwithstanding such transfer, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, except any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act. Provided, that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of Chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (1) any appropriate State court, or (2) without regard to the amount in controversy, the district courts of the United States.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to Chapter 31 of title 28, United States Code.

Sec. 502. In lieu of procedures established by section 501, the Secretary may, by rule, if he determines it to be in the public interest, utilize such administrative procedures as may be specified in any other law to carry out functions under that law which are transferred to the Secretary by this Act.

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TITLE VI

ADMINISTRATIVE PROVISIONS

Sec. 601. There is hereby established a Leasing Liaison Committee consisting of--

(a) a Chairman, who shall be an officer of the Department designated as Chairman by the President; and

(b) Members, who shall be officers or employees of the Department designated as members by the Secretary.

The Committee shall be headed by the Chairman, who may designate one of the members of the Committee as Acting Chairman to serve during his absence. The Chairman and members shall serve as such without additional compensation. The Committee shall obtain from the Department of the Interior such information as is necessary to keep the Secretary fully and currently informed on matters with regard to Federal leasing relating to energy resources. The Committee, through the Secretary, shall have the authority to make recommendations to the Department of the Interior on matters relating to Federal leasing. If the Secretary concludes that any action or failure to act on the part of the Department of the Interior on matters recommended to it is adverse to the responsibilities of the Department, the Secretary may refer the matter to the President.

Sec. 602. (a) Each officer or employee of the Department who has any known financial interest--

(1) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

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(b) The Secretary shall--
(1) act, within 90 days after the effective date of this Act, by rule--

(A) to define the term "known financial interest" for purposes of subsection (a) and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements and

(2) include, as part of the report made pursuant to section 624, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

Sec. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

Sec. 604. (a) Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

(b) Except as otherwise expressly prohibited by law, the Secretary may, with the consent of the head of the department or agency concerned, delegate any function vested in him to the head of such other department or agency, and may authorize such successive redelegation

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thereof as he may deem to be necessary or appropriate. Funds made available to the Secretary or the Department may be allocated or transferred to any department or agency assisting the Secretary in carrying out any functions delegated pursuant to this subsection. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

Sec. 605. The Secretary is authorized to establish, alter, consolidate or discontinue and to maintain such State, regional, district, local or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

Sec. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate: Provided, however, that such authority shall not extend to the abolition of organizational units or components established by this Act.

Sec. 607. In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than six hundred of the scientific, engineering, professional and administrative personnel of the Department without regard to such laws, and may fix the compensation of such personnel not in excess of the rate for grade 16 of the General Schedule specified in section 5332 of title 5, United States Code.

Sec. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) In addition to the number of positions which may be placed in GS-16, 17, and 18 under existing law or this Act, not to exceed 150 positions may be placed in GS-16, 17, and 18 to carry out functions under this Act: provided, that positions established by this subsection shall be subject to standards and procedures under Chapter 51 of title 5, United States Code.

Sec. 609. The Secretary may obtain services as authorized by section 3105 of title 5, United States Code, at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

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Sec. 610. The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the government serving without pay.

Sec. 611. (a) The Secretary is authorized to recruit, train, accept, and utilize, without regard to the civil service and classification laws, rules, and regulations, the services of individuals without compensation as volunteers for or to aid or facilitate the work of the Department.

(b) The Secretary is authorized to provide for incidental expenses, including but not limited to, transportation, uniforms, lodging, and subsistence for such volunteers.

(c) Except as otherwise provided in this section, a volunteer under this section shall not be deemed to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation and Federal employee benefits.

(d) For the purpose of the tort claim provisions of title 28, United States Code, a volunteer under this section shall be considered a Federal employee.

(e) For the purpose of subchapter I of Chapter 81 of title 5, United States Code, a volunteer under this section shall be deemed a civilian employee of the United States within the meaning of the term "employee" as defined in section 6101 of title 5, United States Code.

(f) For the purpose of section 602 of this Act, a volunteer under this section shall be deemed an employee of the Department.

(g) For the purpose of title 10, United States Code, a volunteer shall be deemed to be an employee of the United States.

Sec. 612. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out his functions. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in 10 U.S.C. 101) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy

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or hold or any emolument, prerequisite, right, privilege or benefit incident to or arising out of such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be subject to direction or control by his Armed Force or any officer thereof directly or indirectly with respect to the responsibilities exercised in the position to which detailed.

Sec. 613. (a) With their consent, the Secretary may, with or without reimbursement, use the services, equipment, personnel, and facilities of persons or public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government in carrying out any function now or hereafter vested in him.

(b) The Secretary may, with or without reimbursement, provide service, equipment, personnel, and facilities to public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or political subdivision thereof, or to any foreign government whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the services, equipment, personnel, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary: Provided, that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 322 of this Act, and used under the law governing such fund, if the fund is available for use for providing the services, equipment, personnel, or facilities involved.

Sec. 614. The Secretary is authorized to enter into and perform such contracts, leases, grants, cooperative agreements or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement, and, in cases of grants, with necessary adjustment on account of overpayments and underpayments) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

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Sec. 615. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such other real and personal property (including patents), or any interest therein, as the Secretary deems necessary and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

Sec. 616. Notwithstanding any other provision of law, the Secretary may, whenever he deems such action to be in the public interest, for money or other consideration sell, lease, or otherwise dispose of any interest in any special purpose real property or personal property (including property acquired with grant funds) of the Department and may make conditional or unconditional gifts thereto to any public service institution, Federal, State, local, or foreign agency.

Sec. 617. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

- (1) Emergency medical services and supplies;
 - (2) Food and other subsistence supplies;
 - (3) Housing facilities;
 - (4) Audio-visual equipment, accessories, and supplies for recreation and training;
 - (5) Reimbursement for food, clothing, medicine and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
 - (6) Living and working quarters and facilities; and
 - (7) Transportation of school age dependents of employees to the nearest appropriate educational facilities.
- (b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

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(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary; provided, that such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

Sec. 618. The Secretary, under such terms, at such rates, and for such periods not exceeding fifty years, as he may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody of the Secretary for Department purposes. The Secretary may require lessees under this section to reconstruct and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard.

Sec. 619. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

- (1) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data
- (2) Licenses under copyrights, patents, and applications for patents; and
- (3) Releases, before suit is brought, for past infringement of patents or copyrights.

Sec. 620. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests and devises of money and proceeds from sales of other property received as gifts, bequests or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest or devise to the United States.

Sec. 621. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

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Sec. 622. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

Sec. 623. To the extent necessary or appropriate to perform any function transferred by this Act, the Secretary may exercise, in carrying out the function so transferred, any authority or part thereof available by law, including Appropriation Acts, to the official or agency from which such function was transferred.

Sec. 624. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation.

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(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act.

(b) Such report shall satisfy the reporting requirements of section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

Sec. 625. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department, provided, that no appropriation shall be either increased or decreased pursuant to this section more than 5 percent of the appropriation for such fiscal year.

Sec. 626. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE VII

TRANSITIONAL, SAVINGS AND CONFIRMING PROVISIONS

Sec. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or Reorganization Plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at Level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312-5315) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

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Sec. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

Sec. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

Sec. 704. Employees transferred to the Department holding reemployment rights acquired under section 26 of the Federal Energy Administration Act of 1974 or any other revision of law or regulation may exercise such rights only within 120 days from the effective date of this Act.

Sec. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission or other body, or any component thereof, have been terminated or transferred from that agency, commission or other body, or component by this Act, the agency, commission or other body, or component, shall terminate. If an agency, commission or other body or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at Level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5313) shall terminate.

Sec. 706. The Director of the Office of Management and Budget in consultation with the Secretary is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

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Sec. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges--

(a) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act or by Executive Order to the Department after the date of enactment of this Act, and

(b) which are in effect at the time this Act takes effect.

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Hearings and Appeals, or other authorized officials, a court of competent jurisdiction, or by operation of law.

Sec. 708. (a) (1) The provisions of this Act shall not affect any proceedings pending at the time this Act takes effect before any department, agency, commission, or corporation thereof, functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (c)--

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as this Act had not been enacted.

(c) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act, no cause of action by or against any department or agency,

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functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(d) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

Sec. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

Sec. 710. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official in which this Act vests such functions.

Sec. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act:

or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

Sec. 712. (a) The Federal Energy Administration Act of 1974, is hereby amended as follows:

(1) By repealing sections 4, 7 (except paragraph (2)(A) of section 7(i)), 9, 17, 28, 29, and 30.

(2) Section 52(a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the end of paragraph (3), and by adding at the end of the subsection:

". and

(4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) Section 55(b) is amended by changing the word "seven" to the word "six" and deleting the phrase "one shall be designated by the Chairman of the Federal Power Commission."

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(b) The Energy Reorganization Act of 1974 is hereby amended as follows:

- (1) By repealing section 108.
- (2) By repealing section 305, to the extent that it applies to functions transferred to the Secretary by this Act; and
- (3) By repealing section 306.

(c) Section 4(d) of the Federal Power Act is hereby repealed.

(d) The Atomic Energy Act of 1954 is hereby amended as follows:

- (1) By repealing section 26; and
- (2) By repealing section 161(d) as it relates to functions transferred by this Act.

(e) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(f) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

- (1) In section 304 by adding "the Secretary of Housing and Urban Development" to the list of those with whom consultation is required; and
- (2) In section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation.

(g) (1) Section 12(e) of the Public Utility Holding Company Act of 1935 is repealed and subsections (f), (g), (h) and (i) of section 12 are redesignated as subsections "(e)", "(f)", "(g)", and "(h)", respectively.

(2) Section 15(e) of the Public Utility Holding Company Act of 1935 is amended by changing the period at the end thereof to a colon and adding thereafter the following words:

Provided, however, that nothing in this title shall limit the right or duty of any person to take action necessary to comply with any applicable requirement under any Act administered by the Securities and Exchange Commission or any rule, regulation, or order of that Commission pursuant to any such Act.

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(3) Section 16(b) of the Public Utility Holding Company Act of 1935 is amended to delete therefrom the words "except as provided in section 17(b)" and the commas which precede and follow these words.

(4) Sections 17(a) and (b) of the Public Utility Holding Company Act of 1935 are repealed and subsection (c) thereof is redesignated as section 17.

(5) Section 20 of the Public Utility Holding Company Act of 1935 is amended by deleting the first sentence of subsection (c) thereof and adding a new subsection (c). Sections 20(d) and (e) are amended to read as follows:

(d) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order may, thereunder of the Secretary of Energy or the Securities and Exchange Commission under this title, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(e) Duplicate copies of any information or documents required to be filed with the Secretary of Energy under this title may also be filed with the Securities and Exchange Commission in compliance with the requirements of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Trust Indenture Act of 1939 to the extent specified in such rules and regulations or orders as the Securities and Exchange Commission may deem necessary or appropriate in the public interest or for the protection of investors.

(6) Section 21 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

Sec. 21. Nothing in this title shall affect (1) the jurisdiction of the Securities and Exchange Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 or Chapter X of the Bankruptcy Act, over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such Acts nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder.

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(7) The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

(8) Section 318 of the Federal Power Act is amended by deleting therefrom the words "Securities and Exchange Commission" and adding in lieu thereof the words "Secretary of Energy."

(9) The Securities and Exchange Commission is authorized, in its discretion, by rule or regulation or order, to retain jurisdiction over any proceeding that may be pending on the effective date of this Act as it deems necessary or appropriate in the public interest and the orderly transition of functions under this Act.

(h) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

Sec. 16. In order to insure coordination of electric generation and transmission financing under this Act with national energy policy, no loan for the construction, operation or enlargement of any generating plant or electric transmission line or system shall be made or guaranteed under this Act except after consent by the Secretary of Energy or a determination by the Secretary of Energy that such consent is not necessary.

Sec. 713. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following:

"The Department of Energy."

(b) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy."

(c) Section 5313 of title 5, United States Code, is amended by deleting "(22) Administrator of Energy Research and Development Administration," and inserting in lieu thereof:

"(22) Deputy Secretary of Energy."

(d) Section 5314 of title 5, United States Code, is amended by deleting "(21) Chairman, Federal Power Commission," by deleting "(60) Deputy Administrator, Energy Research and Development Administration," and by adding at the end of the section the following:

"(66) Under Secretaries of Energy (2).

(67) Administrator of the Economic Regulatory Administration, Department of Energy."

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(e) Section 5315 of title 5, United States Code, is amended by deleting "(6) Members, Federal Power Commission", by deleting "(112) Assistant Administrators, Energy Research and Development Administration (6)," and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (8)."

(115) General Counsel of the Department of Energy.

(116) Administrator of Energy Information Administration, Department of Energy.

(117) Chairman, Board of Hearings and Appeals, Department of Energy.

(118) Additional Officers, Department of Energy (4)."

(f) Section 5316 of title 5, United States Code, is amended by deleting "(135) General Council, Energy Research and Development Administration", by deleting "(136) Additional Officers, Energy Research and Development Administration (9)" and adding at the end of the section the following:

"(141) Additional Officers, Department of Energy (10)."

(142) Members, Board of Hearings and Appeals, Department of Energy (2).".

Sec. 714. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

Sec. 715. The transfer of functions under title III of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

Sec. 716. As used in this Act -- (1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be and (2) references to "perform," when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII

EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first

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takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title VI of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708 (a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any Department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

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MARCH 1, 1977
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THE WHITE HOUSE

Section-by-Section Analysis of
the Department of Energy Organization Act

TITLE I - Declaration of Purposes
Section 101

Section 101 states the purposes of the Act as (1) creating a permanent Department of Energy in the executive branch, (2) vesting the Secretary of Energy with his functions, (3) providing for the effective management of energy functions of the Federal government, and (4) establishing a mechanism by which to coordinate the formulation and implementation of a national energy policy.

TITLE II - Establishment of Department

Section 201

Section 201 creates a Department of Energy (Department) in the executive branch to be administered by a Secretary of Energy (Secretary) appointed by the President by and with the advice and consent of the Senate.

Section 202

Section 202 creates within the Department the positions of Deputy Secretary, two Under Secretaries, a General Counsel, and eight Assistant Secretaries, including an Assistant Secretary for Conservation, an Assistant Secretary for Environment, and an Assistant Secretary for Energy Technology. Each of these officials shall be appointed by the President by and with the advice and consent of the Senate.

Section 203

Section 203 authorizes the Deputy Secretary to act for the Secretary in the event of his absence, or disability, or in the event that the office becomes vacant. It also requires the Secretary to establish the line of succession in the event the offices of both the Secretary and Deputy Secretary become vacant.

Section 204

Section 204 creates an Energy Information Administration within the Department to be headed by an Administrator appointed by the President by and with the advice and consent of the Senate. The Secretary will delegate (on an exclusive or non-exclusive basis) energy information gathering functions to the Administrator.

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Section 205

Section 205 creates an Economic Regulatory Administration within the Department to be headed by an Administrator appointed by the President by and with the advice and consent of the Senate. The Administration will administer any function delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973 and, except as provided in section 401 of the bill relating to the jurisdiction of the Board of Hearings and Appeals, will exercise the Secretary's authority to establish rates and charges under the Federal Power Act and the Natural Gas Act. The Secretary may also vest other authorities in the Administration.

TITLE III - Transfers of Functions Section 301

Section 301, with limited exceptions, transfers to the Secretary all functions presently vested in the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission, and the functions vested by law in the officers and components of those agencies and commission.

Section 302

Section 302 transfers to the Secretary all functions of the Secretary of the Interior, the Department of the Interior, and the officers and components of that Department: (1) as relate to and are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration; (2) as relate to and are utilized by the Alaska Power Administration and the Bureau of Reclamation for the transmission and disposition of electric power and energy, except that the Secretary of the Interior will retain authority for the operation of dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962; (3) to provide for the transmission and disposition of the electric power and energy generated at Falcon Dam and Aristad Dam; (4) to prescribe regulations after consultation with the Secretary of the Interior concerning bidding, competition, diligence and production requirements relating to Federal energy leases and royalty interests under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act; (5) as relate to Bureau of Mines fuel supply and demand analysis and data gathering, and research and development to increase efficiency of production technology of solid fuel minerals, except as it relates to mine health and safety and the licensing consequences of solid fuel mining; and (6) to establish production rates for all Federal leases to the extent the Secretary of Interior would be permitted to establish such rates.

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Section 307

Section 307 transfers to the Secretary all functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976.

Section 308

Section 308 transfers to the Secretary the functions relating to transportation of oil and coal by pipeline which are now vested in the Interstate Commerce Commission.

Section 309

Section 309 transfers to the Secretary the jurisdiction vested in the Secretary of the Navy under Chapter 641 of title 10, United States Code, over naval petroleum and oil shale reserves (other than MPR-4).

Section 310

Section 310 transfers to the Secretary the Industrial Energy Conservation Program from the Department of Commerce.

TITLE IV - Board of Hearings and Appeals

Section 401

Section 401(a) establishes a Board of Hearings and Appeals (Board). The Board will have jurisdiction over any agency determination made on the record after opportunity for an agency hearing and any other matters assigned to the Board by the Secretary.

Subsection (b) provides that the Board is to be comprised of three members to be appointed by the President to serve for 4 years and removable by the President only for inefficiency, neglect of duty, or malfeasance. The initial terms will be shortened to ensure staggered expiration of terms. The President will designate the Chairman.

Subsection (c) invests the Chairman with executive and administrative functions over the Board, including supervising personnel assigned to or employed by the Board; however, each Board member may select and supervise his personal staff.

Subsection (d) affirms the Board's independence from the rest of the Department by making clear the Board members are not subject to the supervision of the Department.

Subsection (e) provides that a decision of the Board represents final agency action within the meaning of 5 U.S.C.704.

Subsection (f) provides that the Chairman may designate any other member of the Board to act as Chairman in his

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absence; that the Chairman will preside at all sessions; that a quorum consists of at least 2 members; that each member has one vote; and that actions of the Board shall be determined by a majority vote of the members present. The Board will also have an official seal entitled to be judicially noticed.

Subsection (g) authorizes the Board to adopt administrative and procedural rules.

Subsection (h) empowers the Board to hold hearings, issue subpoenas, administer oaths, examine witnesses and receive evidence.

Section 402

Section 402 prohibits the Board members from engaging in outside business or employment, or maintaining financial interests or relationships which create or may create a conflict of interest.

TITLE V - Administrative Procedures and Judicial Review Section 501

Section 501(a) establishes that all rules, regulations, or orders issued by the Department or a State or local government under authority delegated by the Secretary must comply with the provisions of the Administrative Procedures Act.

Subsection (b) imposes the additional requirement that notice of any proposed rule or regulation must be made by publication of the rule or regulation in the Federal Register with a minimum of 10 days to comment, and, in the case of State and local government agencies, requires publication of such notice in newspapers with statewide circulation. Exceptions to the 10-day notice requirement may occur when compliance would cause serious harm or injury to the public health, safety, or welfare.

Subsection (c) provides for oral presentation of views before, if practicable, but in any case within 45 days after the issuance of a rule or regulation which will likely have a substantial impact on the Nation's economy, or a large number of businesses or individuals. A transcript shall be kept of oral presentations.

Subsection (d) requires procedures for making of adjustments to prevent special hardship, inequity or unfair distribution of burdens under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974 and the Energy Policy and Conservation Act, and orders the establishment of procedures available to those persons for seeking relief or an interpretation.

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Subsection (e) provides that when the Secretary determines a hearing is appropriate on any rule or regulation the significant effects of which are confined to a single State, geographic area, or political subdivision, or the residents thereof, the Secretary shall provide for a hearing in the affected locality.

Subsection (f) provides for judicial review of agency action. With respect to review of action taken under a law functions of which are transferred to the Department, the manner of judicial review shall be that which was specified in the law. The district courts will have jurisdiction in all other cases or controversies except to implement or enforce a rule, regulation, or order by any officer of a State or local government agency under this Act. Any court of competent jurisdiction will have the power to consider any issue raised by way of defense, except one based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act. If such issues are raised the case is subject to removal to district court. Cases or controversies arising under action taken by State or local government agencies may be heard in either the appropriate State court or in the district court. The amount in controversy will not bear on the district court's ability to hear a case. Subsection (f) further permits the Secretary to prescribe procedures in lieu of those established under Section 501 of this Act for State and local government agencies authorized to carry out functions permitted under applicable law. These procedures must be calculated to provide notice to affected persons and opportunity to present views at least 10 days prior to taking the action.

**TITLE VI - Administrative Provisions
Section 601**

Section 601 establishes a Leasing Liaison Committee consisting of a Chairman, an officer of the Department to be designated by the President, and other representatives from the Department to be designated by the Secretary. The Chairman may designate one of the Committee members as Acting Chairman in his absence. The Committee will obtain from the Department of the Interior such information as is required to keep the Secretary of Energy fully informed on Federal leasing relating to energy resources. The Committee, through the Secretary, will have authority to make recommendations to the Department of the Interior on matters related to Federal leasing. Section 601 also provides that should the Secretary conclude that any action or failure to act by the Department of the Interior is adverse to the responsibilities of the Department of Energy, the Secretary may refer the matter to the President.

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Section 602

Section 602 requires that each officer or employee of the Department with a known financial interest in energy related holdings file annually a public disclosure statement beginning on February 1, 1978. The Secretary is charged with defining the term "known financial interest", with establishing methods to monitor and enforce the reporting requirement, and with reporting annually to Congress on the disclosures and actions taken with respect to such disclosures. A fine of \$2,500 or imprisonment may be imposed on an officer or employee who knowingly fails to comply with the disclosure requirement.

Section 603

Section 603 grants to the Secretary the authority to prescribe necessary policies, standards, criteria, procedures, rules, and regulations.

Section 604

Section 604 permits the Secretary, unless expressly prohibited by law, to delegate any of his functions to officers and employees of the Department or, with the consent of the head of the department or agency concerned, to delegate any of his functions to the head of such other department or agency, and to authorize successive redelegations. The funds allocated to the Department to carry out functions which are delegated to another agency may be transferred to that agency.

Section 605

Section 605 gives the Secretary the power to establish and reorganize field offices.

Section 606

Section 606 gives the Secretary the authority to change the structure of the Department so long as he does not abolish organizational units established by this Act.

Section 607

Section 607 permits the Secretary to appoint and fix the salary for the Department's employees in accordance with the civil service laws. However, he may appoint up to 600 of the scientific, engineering, professional, and administrative personnel of the Department without regard to such laws, although the salaries may not exceed the rate prescribed for grade 18 of the General Schedule.

Section 608

Section 608 authorizes positions for not more than fourteen additional officers at Levels IV and V of the Executive Schedule of title 5 of the United States Code, and establishes

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up to 150 positions to be placed in GS-16, 17, and 18 in addition to the number of positions allowed under existing law or this Act. These 150 positions will be subject to the standards and procedures under Chapter 51 of title 5 of the United States Code.

Section 609

Section 609 permits the Secretary to employ the intermittent services of special government employees under Section 3109 of title 5, United States Code.

Section 610

Section 610 authorizes the Secretary to establish advisory committees. Members of the committees may be allowed travel and per diem expenses when away from home on advisory committee business.

Section 611

Section 611 authorizes the Secretary to utilize volunteers and to provide for their incidental expenses. Generally, a volunteer will not be considered to be a Federal employee. However, such volunteers would be treated as Federal employees for purposes of tort claims and for conflict-of-interest restrictions. Volunteers would also be required to file public disclosure statements pursuant to Section 602.

Section 612

Section 612 authorizes the Secretary to provide for the participation through cooperative agreements with the Armed Forces of military personnel in carrying out his functions.

Section 613

Section 613 permits the Secretary, with the consent of the involved party, to use the resources of persons, or public and private nonprofit agencies and organizations, with or without reimbursement, in carrying out his functions. The section also permits the Secretary to provide such resources to public and private nonprofit agencies and organizations when necessary and appropriate to the functions vested in him. Proceeds from reimbursements shall be deposited in the Treasury and may be withdrawn to pay directly the costs of resources provided or may be credited to a working capital fund if the fund is used to provide the resources involved.

Section 614

Section 614 authorizes the Secretary to enter into and perform such contracts, leases, grants, cooperative agreements and similar transactions with public agencies and private organizations and persons as he deems necessary or appropriate to carry out his functions.

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Section 615

Section 615 authorizes the Secretary to acquire, construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and their dependents, and other real and personal property or interest therein which the Secretary deems necessary. The Secretary may also lease or sell real or personal property and provide for eating and other necessary facilities and equipment for the welfare of the Department's employees.

Section 616

Section 616 authorizes the Secretary to dispose of any interest of the Department in special purpose real property or personal property when in the public interest or to make gifts thereof to a public service institution, Federal, State, local or foreign agency.

Section 617

Section 617 permits the Secretary to provide services and resources for employees and dependents stationed at remote locations. Reimbursement for medical services and subsistence supplies will be made at a reasonable value as determined by the Secretary. Such funds will be deposited in the Treasury to be used to pay directly the cost of such work or services or credited to a working capital fund if the fund is available for use in performing the work or services for which payment is received.

Section 618

Section 618 authorizes the Secretary to permit the use for a period not to exceed fifty years and at a rate which he deems to be in the public interest of any real property or improvement under his custody by a public or private person or organization. The Secretary may require the permittee to recondition and maintain the property at its own expense.

Section 619

Section 619 authorizes the Secretary to acquire necessary copyrights, patents, applications for patents, licenses, and releases for past infringement before suit is brought.

Section 620

Section 620 authorizes the Secretary to accept, hold, administer and utilize gifts and bequests of real and personal property in order to facilitate the work of the Department. Money and proceeds of sales of other property must be deposited in the Treasury to be disbursed upon

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the order of the Secretary. For tax purposes such gifts and bequests will be deemed to have been made to the United States.

Section 621

Section 621 provides for establishment of an official seal for the Department, to be approved by the Secretary. The seal will be judicially noticed.

Section 622

Section 622 authorizes the establishment of a working capital fund without fiscal year limitation for the necessary expenses involved in the operation of common administrative services.

Section 623

Section 623 empowers the Secretary in carrying out a function transferred to him by the Act to utilize the authorities available by law to the official or agency from which the function was transferred.

Section 624

Section 624 requires an annual report by the Secretary to the President for submission to Congress on the activities of the Department, United States energy policies, and the status of and outlook for the Nation's energy situation. The report satisfies certain annual reporting requirements of the Federal Energy Administration Act, the Energy Reorganization Act of 1974 and the Federal Nonnuclear Energy Research and Development Act of 1974.

Section 625

Section 625 authorizes the Secretary to transfer funds from one appropriation to another within the Department with a maximum increase or decrease of 5% in a given fiscal year if he is so authorized in an Appropriation Act.

Section 626

Section 626 provides authorization for appropriations to carry out the purposes of the Act.

TITLE VII - Transitional, Savings, and Conforming Provisions

Section 701

Section 701 transfers to the Secretary all personnel, positions, assets, liabilities, contracts, property, records, unexpended balances of appropriations, authorizations, allocations, and other funds connected with the functions transferred to the Secretary under this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950.

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Subsection (b) of this section provides for the abolishing of statutory offices which are transferred by the Act.

Section 702

Section 702 provides that, except where otherwise provided in the Act, the transfer of full-time personnel (except special government employees) and part-time personnel holding permanent positions shall not cause such an employee to be separated or reduced in grade for one year.

Section 703

Section 703 provides that any person holding a position compensated in accordance with the Executive Schedule and who without a break in service is appointed to a comparable position in the Department, will receive at least the same level of compensation as for his previous position.

Section 704

Section 704 allows employees who hold reemployment rights under Section 28 of the Federal Energy Administration Act of 1974 or under other laws to exercise such rights for 120 days following the effective date of this Act.

Section 705

Section 705 provides that when the functions vested in an agency, commission, or other body have been terminated or transferred under Title III of this Act, the body shall terminate. Each position or office expressly authorized by law or whose incumbent was compensated at rates prescribed for Level II, III, IV, or V of the Executive Schedule will also terminate.

Section 706

Section 706 directs the Director of the Office of Management and Budget to make the necessary determinations involved in transferring of functions under this Act and to consult with the Secretary in the process.

Section 707

Section 707 provides for the continuation of all effective orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges made prior to enactment of this Act in connection with transferred functions until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Appeals, other authorized officials, a court of competent jurisdiction or by operation of law.

Section 708

Section 708 protects the status of any proceedings pending at the time this Act takes effect before any body whose

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functions are transferred by the Act. Such a proceeding may be discontinued or modified to the same extent permitted had this Act not been enacted. The Secretary is authorized to promulgate regulations to assure orderly transfer of such proceedings to the Department. The Act shall not affect suits commenced prior to the date this Act takes effect, except to substitute the appropriate Department official as a party.

Section 709

Section 709 provides for severability in the event any part of the Act should be declared invalid.

Section 710

Section 710 provides that after the effective date of this Act, references in any other Federal law to a department, agency, officer or office from which functions were transferred shall be deemed to be references to the Secretary or other appropriate official.

Section 711

Section 711 preserves for the President all authorities and functions which he possessed immediately before the effective date of this Act.

Section 712

Section 712 provides amendments to the Federal Energy Administration Act of 1974 (conforming and technical amendments to the Act made necessary by the transfer of functions); to the Energy Reorganization Act of 1974 (conforming and technical amendments); to the Federal Power Act (repeal of a public report no longer necessary); to the Motor Vehicle Information and Cost Savings Act (granting the Secretary a consultation right on auto fuel economy standards); to the Energy Conservation Standards for New Buildings Act of 1976 (granting the Secretary of HUD a consultation right); to the Public Utility Holding Company Act of 1935 (technical amendments reflecting amendments made necessary by the transfer of functions); and to the Rural Electrification Act of 1936 (granting the Secretary a concurrence right over certain REA financing).

Section 713

Section 713 amends title 5, United States Code making deletions and additions to the Executive Schedule in conformity with other provisions of the Act.

Section 714

Section 714 enables the Secretary, with the consent of the appropriate Department or agency head, to use the services of the personnel of the Departments and agencies from which

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functions have been transferred as needed to facilitate the transfer of functions under this Act.

Section 715

This section provides that the transfer of functions under this Act will not affect the validity of a draft environmental impact statement published before the effective date of this Act.

Section 716

Section 716 defines the terms "function" or "functions" to include duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and the term "perform," when used in relation to functions, to include the exercise of power, authority, rights, and privileges.

TITLE VIII - Effective Date and Interim Appointments

Section 801

Section 801 provides that the Act shall take effect 120 days after the Secretary takes office or earlier if the President so prescribes and publishes notice in the Federal Register. However, officers may be nominated and appointed and the Secretary may promulgate regulations providing for the orderly transfer of proceedings to the Department at any time after the date of enactment. Funds available to an agency or department whose functions are transferred may be used to pay the compensation and expenses of an officer so appointed with the approval of the Director of the Office of Management and Budget, until funds for that purpose are otherwise available. If an officer has not entered office on the effective date of this Act, the President may designate any officer whose appointment was required to be made by and with the advice and consent of the Senate to act in such office until it is filled. His compensation will be at the rate of the office in which he acts.

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EMBARGOED FOR RELEASE UNTIL NOON, TUESDAY 1 MARCH

MARCH 1, 1977

Office of the White House Press Secretary

THE WHITE HOUSEMAJOR PROVISIONS OF LEGISLATION TO
CREATE A DEPARTMENT OF ENERGY

I. COMPONENTS OF DEPARTMENT

The bill proposes creation of a Department of Energy, with the following major structural components:

- The Federal Energy Administration
- The Energy Research and Development Administration
- The Federal Power Commission
- Certain programs and functions from the Interior Department:
 - The four regional power marketing Administrations (Bonneville, Alaska, Southwest and Southeast) and the power marketing functions of the Bureau of Reclamation
 - Certain programs of the Bureau of Mines -- I.e., the fuels data program (which collects and analyzes data principally on fossil fuels) and research and development programs related to improvements in coal mining extraction technology, coal preparation and analysis, and technology development for equipment for surface mining
 - Certain responsibilities relating to leasing of energy minerals onshore and offshore, as outlined further in III below
 - Policy control over the rate of the exploration program, to be conducted by Interior, in the Naval Petroleum Reserve in Alaska
- The existing statutory authorities for the thermal efficiency standards program, now vested in the Secretary of HUD (these authorities related to development by late 1979 of standards for commercial and residential buildings; implementation of these standards, pursuant to Energy Department policy guidelines, would continue in HUD)
- Existing Commerce Department programs to promote voluntary industrial energy conservation
- The jurisdiction over and administration of the three Naval petroleum reserves in California and Wyoming, and three Naval oil shale reserves in Colorado and Utah, currently in the Defense Department
- The authorities vested in the SEC through the Public Utility Holding Company Act of 1935 to regulate mergers in the electric utility industry
- The authorities currently vested in the ICC to regulate oil pipelines, including valuation and ratemaking.

In addition, the Energy Department will have an advisory role in recommending goals in the automobile efficiency standards program to the Secretary of Transportation, who will continue to have primary responsibility for the program, and will have a

right of concurrence on approval of REA loans and loan guarantees for generating and transmission facilities to ensure their coordination with national energy policy.

II. INTERNAL STRUCTURE OF DEPARTMENT

- Creates as Presidentially appointed statutory officers subject to Senate advice and consent the Secretary, a Deputy Secretary, two Under Secretaries, an Assistant Secretary for Conservation, an Assistant Secretary for Environment, an Assistant Secretary for Energy Technology, a General Counsel and five other Assistant Secretaries
- Creates a statutory Economic Regulatory Administration and an Energy Information Administration, both headed by Presidential appointees subject to Senatorial advice and consent
- Creates a Board of Hearings and Appeals (see III below)
- Vests all powers of the Department in the Secretary, with the exception of the functions vested in the FEA Office of Energy Information, which are vested directly in the Administrator of the Energy Information Administration
- Provides that the Department will be established 120 days after enactment of the legislation to provide for necessary administrative work to be accomplished

III. REGULATORY FUNCTIONS

Functions of Economic Regulatory Administration

- The Regulatory Administration will carry out informal rulemaking and issuance of policy statements covering the economic regulatory areas within the Department
- At the present time, this principally includes coverage of FEA regulatory activities (pricing and allocation of petroleum and petroleum products) and national wellhead pricing of natural gas by the Federal Power Commission
- In addition, in the future, the Secretary or the Economic Regulatory Administration will be able to issue prospective rules to simplify procedures now conducted by formal rulemaking or adjudicatory proceedings (i.e., proceedings on the record in which an opportunity for oral argument and cross-examination is afforded)
- These prospective rules will aid integration of policy for oil and natural gas and should simplify procedures in those areas (see below) in which current procedures are conducted in a formal on the record, trial-type situation

Composition and Functions of Hearings and Appeals Board

- The Hearings and Appeals Board is made up of three Presidential appointees, subject to Senate advice and consent, serving four year terms and removable only for specified causes. They are insulated from control of the Secretary by virtue of these protections.

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- Initially, the functions of the Hearings and Appeals Board would in practical terms extend to all matters now decided on the record in formal proceedings.
- This includes, principally, FPC matters pertaining to interstate wholesale electricity sales, natural gas transportation (pipeline) charges, and hydroelectric facilities licensing.
- The Board may hear these cases initially, or may give them initially to Administrative Law Judges, whose decisions could then be appealed to the Appeals Board
- The actions of the Board would be a final departmental action, subject to review only in the courts
- Over time, as the Secretary or the Administrator of the Economic Regulatory Administration issued more rules of general applicability, the complexity of the individual cases handled by the Board should be reduced, as the number of issues which must be tried in individual case is reduced, thereby expediting action.

IV. PUBLIC LANDS LEASING

In the area of public lands leasing, a process arrangement between the Department of Energy (DOE) and the Department of the Interior (DOI) will be proposed. Under this arrangement, the actual leasing of resources will remain in the Interior Department, but control over broad economic and energy supply goals of the process, and specific controls over certain procedures within the process, will reside in the Energy Department.

- (a) Each year the Energy Secretary will develop long-term production goals for Federally controlled onshore and offshore energy resources, resource by resource, with input from the Interior Secretary. The goals will be set taking into account reasonable lead times for the particular resource involved. If the Interior Secretary concludes a particular goal is unrealistic, the matter will be decided by the President. (This relationship will be established by Executive Order.)
- (b) General regulations governing the leasing program will be issued by DOI. However, regulations covering economic terms and conditions of leases, as specified below, will be established by DOE.
 - Competitive relationships among energy companies (such as restrictions on joint venture bidding by major oil companies)
 - Use of alternative bidding systems
 - Mandatory rates of production
 - General due diligence regulations
 - Procedures for acquiring and distributing that portion of the resources allowed by law to be acquired in-kind by the Federal government.

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- (c) Issuance of specific lease terms and conditions will be done by DOI, with DOE approval required only for those areas of lease terms and conditions covered by the general regulations set by DOE in (b), above.
- (d) In the post-lease period, DOE will fix production rates for the energy resources.
- (e) DOE will have authority to recommend cancellation or forfeiture of the lease to the Interior Secretary for failure to meet those production rates, in accordance with applicable law and terms of the lease. If the Interior Secretary determines that the lease will not be cancelled or forfeited, his reasons for that determination must be published in the Federal Register within 90 days. (This will be established by Executive Order.)
- (f) A Leasing Liaison Committee will be established, with a Presidential designee as its head (coming from the Energy Department) and membership from the Energy Department. The Committee will act as a vehicle for DOE to be fully informed at all stages of the leasing process, and will enable the Secretary of Energy to make recommendations to the Secretary of the Interior on matters relating to leasing, with a right of referral by the Secretary to the President if he feels that actions or failure to act by DOI on matters recommended to it are adverse to the responsibilities of DOE.

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EMBARGOED FOR RELEASE UNTIL NOON TUESDAY 1 MARCH March 1, 1977

Office of the White House Press Secretary

THE WHITE HOUSE

(FACT SHEET ON ENERGY REORGANIZATION LEGISLATION)

INTRODUCTION

The President today sent to Congress proposed legislation to reorganize the Federal Government's energy agencies and programs. This bill would establish a new Cabinet-level Department of Energy by combining the functions of the three major Federal energy agencies along with energy-related functions of six other executive and independent regulatory agencies. This new Department would provide the organizational base and the programmatic authorities needed to develop and implement overall Federal energy policies. Among the major responsibilities of the Department will be: conservation, regulation, research and development, resource development and production, and data management. Each of these functions is critical to establishing and implementing a national energy policy which serves both the near and long term needs of the country.

The proposal was advanced in the President's Message on Energy Reorganization of the Executive Branch. Legislation to establish the Department of Energy accompanied the Message to Congress.

DEPARTMENTS AND AGENCIES AFFECTED

The Proposed Department of Energy (DOE) would consolidate all functions of the:

- * Federal Energy Administration (FEA)
- * Energy Research and Development Administration (ERDA)
- * Federal Power Commission (FPC)

These agencies would cease to exist upon transfer of their functions and resources to DOE.

Energy-related functions would also be transferred from the Departments of: Defense, Interior, Commerce, Housing and Urban Development; and from two independent regulatory

agencies, the Interstate Commerce Commission and the Securities and Exchange Commission. These Departments and regulatory commissions will continue to exist, and their performance of all other non-energy functions will be unaffected by this legislation.

The Department of Agriculture's Rural Electrification Administration loan program is modified to require prior approval of the Secretary of Energy on loan-related issues. The Secretary of Transportation shall also consult with the Secretary of the Department of Energy on automobile fuel efficiency standards.

BACKGROUND ON ENERGY REORGANIZATION

This initiative represents the first of the President's legislative proposals to reorganize the Federal bureaucracy to more effectively and efficiently serve the American people.

This proposal for a permanent, Cabinet-level Department of Energy responds to the seriousness of the Nation's--and the world's--long and short-term energy problems. Just as the underlying energy situation was not fundamentally improved with the passing of the gasoline crisis stemming from the 1973-1974 oil embargo, neither will our energy problems be solved with the passing of this winter's natural gas shortages. These acute problems are but symptoms of a severe and chronic energy problem which requires forceful leadership and clear direction at the highest level of government policy making. The Department of Energy will provide the badly needed management and programmatic framework to systematically address and resolve our energy problem.

The adequacy of the Federal Government's organizational structure to deal with the energy issue is not a new concern. In 1974, the Congress enacted legislation establishing the Federal Energy Administration, the Energy Research and Development Administration, and the Nuclear Regulatory Commission. While the separation of health and safety regulation from the research and development authorities of the old Atomic Energy Commission responded to an underlying problem of combining promotional responsibilities and health and safety regulation, the FEA was created as a temporary agency to manage the effects of the Arab oil embargo and subsequent increase in the world oil prices. The FEA was scheduled to go out of existence on June 30, 1976; however, the Congress extended its life until December 31, 1977. In extending the FEA expiration date, the Congress specifically mandated an executive branch review, and development of recommendations to address the organization of Federal energy responsibilities. President Ford responded to this requirement by submitting recommendations on January 11, 1977.

The legislation which President Carter is submitting to the Congress today responds both to the Congressional

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mandate, and to a campaign pledge which he made on September 23, 1976. At that time he announced his intent to reorganize the Federal Government's energy responsibilities, and drew the outlines of the new Department of Energy. That campaign promise is fulfilled in the legislation which the President proposed today.

FUNCTIONS AND RESOURCES TO BE TRANSFERRED

The principal functions and resources that would be transferred to DOE are listed below. Except for FEA, ERDA, and FPC, estimates reflect direct program activities and do not include departmental overhead resources which will be identified later.

Functions and Resources to be Transferred

	Budget Outlays (FY 78 Millions)	Employment (Full-time Permanent)
--Federal Energy Administration (FEA)		
o All functions including oil pricing and allocation, conservation, coal utilization, strategic petroleum reserve, energy information, resource development	\$ 2,611.0	4,031
--Federal Power Commission (FPC)		
o All functions including natural gas regulation, interstate wholesale electric rate setting, and hydroelectric licensing (adjudicatory proceedings will be insulated from prejudicial influence)	43.0	1,458
--Energy Research and Development Administration (ERDA)		
o All functions including R&D in fossil, nuclear, fusion, solar, geothermal, and conservation (energy efficiency); uranium enrichment and production; military applications and safeguards; environment and health research	7,485.0	9,052

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Functions and Resources to be Transferred (continued)

	<u>Budget Outlays (FY 78 Millions)</u>	<u>Employment (Full-time Permanent)</u>
--From Department of Interior		
o Power marketing functions,* coal mine production research, fuel data, production goals and certain regulatory authorities for energy resource leasing	254.0	4,925
--From Department of Defense		
o Naval Petroleum Reserves #1, 2, 3; Naval Oil Shale Reserves #1, 2, 3	206.0	231
--From Interstate Commerce Commission		
o Pipeline valuation	.5	17
o Pipeline rate setting	--	--
--From Securities and Exchange Commission		
o Public Utility Holding Company Act functions (except public disclosure requirements)	.5	18
--From Department of Commerce		
o Industrial energy conservation program	1.6	30
--From Department of Housing and Urban Development		
o New buildings energy efficiency standards (program will continue to be carried out through HUD)	10.0	5
--From Department of Agriculture		
o Prior approval over Rural Electrification Administration loans or loan guarantees for construction, operation, or enlargement of generating plants, electric transmission lines or systems	--	-
TOTAL	\$10,611.6	19,767

*The power marketing functions of Bonneville, Alaska,
Southwestern, Southeastern Power and Defense Electric Power
Administrations; and the marketing of power by the Bureau
of Reclamation.

The functions and resources (including manpower) for which these agencies are responsible will be transferred to the new Department with as little disruption as possible to ongoing programs, particularly in view of the serious nature of the energy situation and the need to maintain maximum performance in all federal energy programs.

PRESENT ORGANIZATIONAL PROBLEMS

Duplication, overlapping jurisdiction, fragmentation of responsibility, and conflicting mandates have severely hampered the Government's ability to formulate, implement, and enforce a coherent national energy plan.

*Policy Development

No single agency or individual is responsible or accountable for the development of a workable national energy policy. Under the current organization, FEA has planning authority which extends to 1985, but not beyond; ERDA may plan after 1985, but not before. Policies with respect to the use of electrical energy are developed by the FPC; responsibility for coal use is shared by Interior, ERDA, and the FEA. Natural gas and oil, fossil fuels which are almost always found and produced together, are allocated and regulated by the FPC and the FEA respectively. Executive branch recommendations to the Congress concerning energy priorities, whether in research and development, production, conservation, or pricing, come from several different agencies, often with conflicting approaches. Businesses and consumers alike must deal with a host of Federal agencies and requirements in order to manage their own fuel needs. Policy can neither be effectively developed nor implemented without a single entity which can overview all of our energy-related programs and needs, and meld these efforts together into a planned and concerted effort to resolve our national energy problems.

*Energy Data

There are currently 261 energy data programs operated by over forty executive departments and agencies. Over 100 of these are in four key agencies: 23 in Federal Energy Administration, 40 in the Federal Power Commission, 23 in the Department of Interior, and 19 in the Energy Research and Development Administration. FEA, EPRA, and the Department of Interior have published different energy projections and forecasts, representing differing interpretations of and assumptions about energy data. The fragmentation of these responsibilities also increases the reporting and information analysis burdens placed on the energy industries without necessarily improving the Federal Government's or the public's understanding of the energy problem.

*Conservation

Five Federal agencies and departments--the FEA, ERDA,

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the Department of Commerce, the Department of Transportation, and the Department of Housing and Urban Development--now share responsibility for energy conservation. The absence of a lead agency with a scope of authority broad enough to initiate and follow through on energy conservation programs is in part responsible for our lack of progress in cutting back excessive or unnecessary energy consumption.

In the single area of industrial energy efficiency targets, two separate Federal agencies have major responsibilities. The Energy Conservation and Production Act (ECPA) requires the FEA to set energy efficiency improvement targets for the ten major energy consuming industries and the fifty most energy-consuming corporations within each of those industries. These companies are required to report to FEA on their progress in meeting the specified target. However, the Department of Commerce also operates a voluntary industrial energy conservation program, which predates the Energy Conservation and Production Act. Companies participating fully in this voluntary reporting program may be exempted from reporting to FEA under ECPA. The result is a disjointed, uneven series of requirements which fail to serve conservation objectives adequately.

*Energy Research and Development

Energy R&D goals and allocation of resources among various R&D programs have too often been undertaken independently of national energy priorities. Coal research and development has been a stepchild, with the Bureau of Mines, FEA, ERDA, and EPA separately affecting major parts of a single fuel cycle. Nuclear energy has received relatively more attention than other potential energy options in large part because a single agency, the Atomic Energy Commission, promoted its use without regard to other research and development strategies. Conservation R&D for too long was an *afterthought*, with FEA-ERDA fragmentation impeding progress.

Longer term R&D efforts have been supported at the expense of shorter range possibilities reflecting ERDA's policy focus on 1985 and beyond. An energy research and development program should exist not to serve its own ends, but to provide this country with the energy options which national priorities demand in order to balance our energy budget.

*Economic Regulation of Energy Supplies

The FPC regulates the price and allocation of interstate natural gas, electricity, and hydroelectric power. The FEA regulates oil prices. The Energy Research and Development Administration determines the price of enriched uranium. The price and availability of each of these fuels is determined independently of the others, even though these sources compete to meet our national energy demands, and often are substitutes for one another.

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Propane pricing and allocation is a good example of the problems caused by this fragmented responsibility. In many regions of the country, propane is a direct substitute for natural gas. Regulatory power over propane allocation resides in the Federal Energy Administration, whereas natural gas allocation and curtailment powers lie with the Federal Power Commission. In situations of severe shortage, such as the country faced this winter, the bifurcation of responsibility over these two fuels both complicated and diluted our ability to manage the shortages fairly and to prevent major supply disruptions.

The Federal Power Commission was created to serve economic and supply conditions vastly different from those which exist today. The FPC's salient mission has changed from one of regulating distribution activities of natural gas pipelines to use curtailment, conservation, and allocation. The FEA now has similar authorities to regulate oil prices and distribution. Economic regulatory decisions affecting both oil and natural gas should be made under a common set of assumptions reflecting the shortage of supply and changed competitive picture surrounding these two fossil fuels.

*Resource Development

Federal activities relating to the development and supply of known domestic energy resources have been spread out among almost all of the Government's energy agencies. As a result, individual programs for development of coal, oil, natural gas, and uranium, as well as geothermal and solar energy, have suffered from a lack of overall focus and sense of urgency. The fragmentation of responsibility has effectively precluded establishment of priorities among the programs. Federal coal reserves which have already been leased for development have not been produced at capacity. Speculative bidding on other federally-owned energy resources has hindered rather than promoted development of those resources which can be produced in an environmentally acceptable manner. Leasing and bidding policies have not always served the national interest effectively. Our domestic fossil fuel production has dwindled since the early 1970's, in part because of a lack of organizational coherence capable of relating resource development decisions to supply needs.

BENEFITS OF THE REORGANIZATION

The creation of a Department of Energy will have wide-ranging benefits both for the Executive Branch and the American people. It will provide a comprehensive overview of and national perspective on energy matters. It will ensure a more stabilized energy policy framework with a single Cabinet-level energy spokesperson. It will provide a clear focus within the Administration on energy policy and programs and the necessary central staff capability to analyze a wide range of energy issues. The DOE will, in this integrated mechanism, provide for the reduction of overlap and unnecessary duplication leading to more

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effective policy formulation, data collection and analysis, conservation, financial incentives, energy resource development, and economic regulation.

National Energy Policy

The Nation critically needs comprehensive, balanced national energy policies to guide the public and private sectors in working together to put energy supply and demand back into balance--both now and for the years ahead. Under the Department of Energy, responsibility for the formulation of energy policy will be vested in a single official, the Secretary of Energy, who will be supported by a unified organization with the authority to direct Federal actions needed to implement that policy. An Under Secretary for Policy and Evaluation will support the Secretary by providing continuous attention to the task of analyzing policy alternatives, formulating responses to key issues, recommending choices, developing associated programs, and evaluating results.

Energy Data and Analysis

The tasks now performed by FEA, ERDA, the FPC, and the Interior Department's Bureau of Mines will be carried out in the new Energy Department by an Energy Information Administration, statutorily established and headed by an Administrator appointed by the President and confirmed by the Senate. The legislation specifies that the functions vested in the Office of Energy Information at FEA by the Energy Conservation and Production Act will be vested in the Administrator of the Energy Information Administration. This Administration will be subject to the same types of requirements, including performance audit review, as were established in ECPA to help insure the objectivity and reliability of Federal energy data.

To rationalize data gathering by the Federal Government, the Department of Energy will consolidate the information, data and analysis functions of FEA's Office of Energy Information and Analysis; the electric power and natural gas industry analytical systems, and the hydroelectric, electric utility and natural gas data systems of the Federal Power Commission; the fuel supply/demand analysis and data gathering functions of the Bureau of Mines (DOI), and the data functions of ERDA. Together these units will be better able to provide comprehensive and coordinated data gathering and analysis with respect to:

- oil, gas, coal and uranium reserves and/or resources;
- the production, supply and distribution of energy,
 - o petroleum and/or petroleum product imports, supply, costs, prices, production, stocks, marketing, distribution and market shares;
 - o natural gas production, supplies, distribution, curtailments, availability of alternate fuels, costs and prices;

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- o coal production, marketing, distribution;
 - o electricity generation (system loads, capacities, exchanges, construction, transmission), supply, rate schedules, prices;
 - o shipments of nuclear fuel in the U.S.;
 - o hydropower resources;
 - o solar collector production and sales.
- use and consumption of all forms of energy.

Energy Conservation

In order to conserve increasingly scarce energy resources and cut down on unnecessary consumption and waste, the Department of Energy is given the authorities and programs necessary to foster, encourage, and--where appropriate--require energy conservation. In addition to the consolidation of conservation programs from FEA and ERDA, which together expend more than 80 percent of funds appropriated for conservation programs, the Department will acquire authorities from the Department of Housing and Urban Development (establishment of thermal efficiency standards for commercial and residential buildings) and from the Department of Commerce (the existing Commerce Department program to promote voluntary industrial energy conservation). Also, the Secretary of Energy will have an advisory role in recommending goals in the fuel standards program to the Secretary of Transportation, who will continue to have responsibility for the program, and will have a right to concurrence on approval of loans for the generation or transmission of electricity made or guaranteed by the Rural Electrification Administration, to ensure their coordination with national energy conservation policy. This combination of authorities will provide the necessary base from which a comprehensive national energy conservation program can be developed and implemented.

Environment.

Every effort of the new Department to conserve, produce, regulate, or manage energy must be tempered by the realities of the potential impacts on the environment. The Secretary of Energy must have the benefit of continuous and reliable advice in this area to assure that protection of the environmental quality is an integral element of national policy and the programs which implement that policy. An Assistant Secretary for this purpose is provided who will also direct the Department's research programs which impact on environment, health and safety.

Technology Research and Development

Research and development can and must play an essential role in developing supply and conservation options to solve our energy problem. Creation of a Department of Energy will, by joining policy planning and research and development, permit a more appropriate assignment of priorities between long term and short-term R&D efforts.

A central focus will enable us to better determine the pace and scope of long-term programs in consonance with the best possible projections of energy demand, giving full account to the effects of conservation and near term resource development.

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This integrated program operation will enable the Department to concentrate on vital research and development priorities such as use of geothermal energy, generation of electricity from solar energy, safe and environmentally acceptable use of fission and fusion power for electrical generation; use of plentiful coal resources in more efficient, environmentally clean forms; and continuing programs of basic and applied energy sciences.

Economic Regulation of Energy Supplies

Combining the economic regulatory activities of FEA and the FPC will permit the new Department to carry out pricing and allocation decisions in the context of national energy policies while taking care not to compromise the impartiality of adjudicatory decisions and procedures. In absorbing the regulatory functions of the FPC and the FEA, organizational distinction is made between general rule-making responsibility (rules of general applicability) and adjudication (specific case determinations on an individual basis). Rulemaking can and should be coordinated with national energy policies and goals. Adjudication and any resulting appeals should be insulated from political direction and influence.

Under the legislation, an Economic Regulatory Administration is established, with a Presidential appointee, confirmed by the Senate, at its head. In addition, a Board of Hearings and Appeals is established with three Presidential appointees who serve for fixed four-year terms and who are removable only for specified causes.

*Current Procedures

The procedures of the FEA and the FPC differ greatly on most matters within their jurisdiction. FEA proceeds on all regulatory matters involving pricing and allocation by rule-making (basically notice of proposed rulemaking, opportunity for comment, and opportunity for oral presentation of views). Hearings are held by the Office of Regulatory Programs to which the FEA Administrator has delegated full authority for rulemaking. Rules and orders issued by FEA are reviewable through an exceptions and appeals process.

The Federal Power Commission, by contrast, conducts most of its regulatory work through formal, on the record rule-makings and adjudications (which require opportunity for oral argument and cross-examination, and opportunity to make a record on that basis). Examples include the FPC's basic work in the areas of transportation rate-making for natural gas pipelines, electricity rate-making (for wholesale interstate sales of electric power), and certifications of public convenience and necessity (for natural gas pipelines). The main exception to this formal procedure is in the area of well-head pricing of natural gas, in which the FPC proceeds by informal rulemaking.

*Procedures under a Department of Energy

Under the proposed legislation, the regulatory activities listed above would be continued, and allocated between the Secretary or his delegate, and the Board of Hearings and Appeals.

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Secretarial role: The Secretary or the Administrator of the Economic Regulatory Administration, as the Secretary's delegate, will carry out informal rulemaking and issuance of policy statements covering the regulatory areas within the Department. This will include coverage of all FEA regulatory activities (principally pricing and allocation of petroleum and petroleum products) and the Federal Power Commission's wellhead pricing of natural gas. Appeals from individual orders issued in the area of petroleum pricing and allocation will be through the same type of exceptions and appeals processes as are now used in FEA.

In addition, the Secretary (or the Administrator of the Economic Regulatory Administration) will have the ability to issue prospective rules simplifying some of the proceedings now conducted by on-the-records rule-making or adjudication to the extent that he is not constrained from doing so under the applicable organic statutes. Until such time as the Secretary of the Administrator issues such rules, however, these types of formal rulemakings or adjudications will be performed by the Board of Hearings and Appeals, as described below. This retention of flexibility to attempt to simplify procedures, to the extent that the underlying laws and case precedents permit, will permit a unification of these procedures and a reduction of the time required for them.

Board of Hearings and Appeals role: Initially, the Board of Hearings and Appeals would have jurisdiction over all proceedings which must be conducted on the record by law, and which the Secretary determines should be conducted on the record. Initially, it is anticipated that all proceedings conducted on the record under the practice of the constituent agencies and commissions involved would continue to be so conducted.

The Board of Appeals may determine to hear such matters initially itself, or may use Administrative Law Judges to make initial determinations which the Board would then review.

In practice, this means that the Board would have jurisdiction over much of the FPC's current work load. Many of these proceedings, however, are now conducted by the FPC in a formal, on-the-record manner even though this is not required by existing statute and case law. In these areas, principally natural gas transportation and electric power rate-making, the Secretary (or the Administrator of the Economic Regulatory Administration) would be free to attempt to establish, by rule, less formal procedures for determination in these areas.

By giving the Secretary this flexibility, while still requiring observation of statutory requirements and legal precedents which provide for full rights to a hearing on the record, the integrity of the regulatory process is preserved while helping to integrate policy making and streamline procedures.

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Energy Resource Applications

Supply development responsibilities will, for the first time, be consolidated into one department. These responsibilities include:

1. Electric power supply (the four Interior Department power administrations).
2. The strategic stockpile designed to decrease U.S. vulnerability to supply interruptions and foreign oil price increases.
3. Assurance of an adequate supply of enriched uranium to meet domestic utility needs as well as foreign supply commitments.
4. Evaluation of uranium resources and reserves.
5. Setting of production goals for federally-owned fossil fuel resources, and setting the economic terms and conditions of leasing and production of fuel resources in the Federal domain.
6. Demonstrating new technologies to bring solar energy, clean coal, geothermal, and other environmentally acceptable sources of energy quickly into the commercial mainstream.

Of particular importance will be the role of the new Department of Energy in the economic and energy supply aspects of leasing federally-owned energy resources. These supplies, which the Government manages in trust for the public, are a vital source of energy. However, they must be explored and developed with care to ensure a balance between energy development demands, protection of environmental quality, and consideration of the other uses to which these resources might be devoted (including agriculture, recreation, fishing, grazing, or wildlife protection). Due consideration must also be given to the states and localities which are impacted by such development.

The legislation establishing the Department of Energy would transfer certain leasing authorities and energy supply policies from the Secretary of Interior to the Secretary of Energy, but the overall responsibility for the leasing process remains with the Department of Interior. By establishing this joint responsibility, the needs of energy development are served without compromising environmental or multiple use management objectives which fall within the mandate of the Secretary of Interior.

Under this legislation, and an Executive Order which the President will issue upon establishment of the Energy Department, the Energy Department will be given responsibility for the following steps in the leasing process:

*Long term production goals--The Energy Secretary will establish long-term production goals for Federally-owned onshore and offshore energy resources on a resource-by-resource basis. These goals will be established in

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consultation with the Secretary of Interior, and should there be disagreement between the two Secretaries on the production goal level, the matter will be decided by the President.

*General economic terms and conditions of leasing--
The Energy Secretary will have responsibility for issuing regulations pertaining to economic aspects of the leasing process such as bidding systems and eligibilities, mandatory rates of production, due diligence requirements, and disposition of in-kind Federal royalties. General regulations governing all other aspects of leasing, such as land management and conservation regulations, inventories of non-energy mineral resources, lease sale schedules, and environmental impact statements remain the Secretary of Interior's responsibility.

*Economic terms and conditions of individual leases--
The Secretary of Interior must consult with and receive the prior approval of the Secretary of Energy before establishing the actual economic terms and conditions of individual leases. In practice, the Secretary of Energy will prepare economic stipulations, determine the eligibility of joint ventures and the actual bidding system, establish diligence regulations, and determine rates of production and specific diligence requirements before the Secretary of Interior issues a lease.

*Economic terms and conditions in the post lease period--
The Secretary of Energy shall have the power to determine production rates, and to recommend to the Interior Secretary cancellation or forfeiture of the lease, in accordance with applicable law, if those production rates are not being met. The Interior Secretary will retain the power to cancel the lease, but should he determine not to cancel the lease after recommendation from the Energy Secretary to do so, he must publish his reasons for this decision in the Federal Register.

In order to further coordination and cooperation between the Secretary of Energy and the Secretary of Interior, a Leasing Liaison Committee is established within the Energy Department. The Committee will be responsible for keeping the Energy Secretary fully informed at all stages of the leasing process, and will serve as the vehicle for the Secretary of Energy's recommendations to the Interior Department on matters relating to leasing. The Secretary of Energy may refer a matter in dispute between the two Secretaries to the President for final decision upon a finding by the Energy Secretary that Interior Department actions on policies recommended to it by the Energy Department are adverse to the responsibilities of that Department.

This allocation of responsibilities will assure that the values of environmental protection and multiple use management are protected, and at the same time ensure that Federal resources leased to private companies are developed under terms and at a pace consistent with national energy needs.

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MANAGEMENT AND ORGANIZATION OF THE ENERGY DEPARTMENT

Management Structure. Key elements of DOE's management structure are:

- o The Secretary, who will have all necessary authority to assign functional responsibilities, deploy resources, appoint many of the key officials and otherwise manage the Department effectively;
- o The Deputy Secretary who will serve as the Secretary's principal officer;
- o The Under Secretary for Policy and Evaluation who will analyze energy problems, formulate policy recommendations for the Secretary's decision, develop corresponding departmental programs, and evaluate program results;
- o The Under Secretary for Management who will serve as the Department's controller, direct management information and project review systems, coordinate field operations, and otherwise oversee the administrative management functions of the Department;
- o Several Assistant Secretaries with Department-wide functions in specific areas such as Congressional relations, public and intergovernmental relations, and international programs; also a General Counsel. These officials will have responsibilities cutting across Departmental programs that must be carried out from a Secretarial perspective.

The Secretary's responsibility for administering the line programs of the Department will be carried out by:

- o The Administrator of the Energy Information Administration who will be delegated responsibility for energy data gathering functions of FEA and of other components transferred to DOE.
- o The Administrator of the Economic Regulatory Administration who will perform the rulemaking and other non-adjudicatory functions of the FPC. He will also administer FEA's oil pricing and allocation regulation functions.
- o Assistant Secretaries in the area of conservation, environment, energy technology, resource applications, and defense programs. Placement of Departmental functions under each Assistant Secretary will be determined by the Secretary; the legislation creating the new department specifies that there shall be an Assistant Secretary for Conservation, an Assistant Secretary for Environment, and an Assistant Secretary for Energy Technology.
- c Regional Administrators for the Department's 10 standard Federal regions who will extend Secretarial representation and department-wide leadership to each

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region of the Nation. Decentralization of authority to the field will be provided to the extent feasible in order to relate better to the needs of State and local governments, and the public in general.

- o The private sector, both directly and through DOE's Government-owned laboratories, will continue to play its vital role in the conduct of energy research, development, and demonstration. Also, colleges, universities and State and local governments will continue to play an important role in the national R&D effort.

The attached chart depicts the currently contemplated organization of the Department and indicates the degree to which the positions described above are specified in the legislation.

Selected Program Information

Transfers from the Department of the Interior

- o Power marketing functions (see page 4) will be administered together with the Secretary of Energy's prior approval authority related to the Rural Electrification Administration (see below). These functions will contribute to DOE's ability to formulate and implement national utility policies.
- o Bureau of Mines fuels data functions will be consolidated with the functions of the Energy Information Administration in order to permit an integrated and identifiable source for energy-related data.
- o Bureau of Mines research and development will be integrated with other research and development efforts from ERDA relating both to improved coal mining and to more efficient use of coal resources.
- o Energy emergency preparedness functions carried out by the Defense Electric Power Administration (DEPA), the Emergency Petroleum and Gas Administration (EPGA), and the Emergency Solid Fuels Administration, will be consolidated with FEA's emergency oil allocation and strategic reserve functions and FPC's emergency natural gas allocation function to permit a unified approach to the problems caused by supply disruption and natural disasters.

From the Department of Defense

- o Management of the Naval Petroleum Reserves #1, 2, and 3, and Naval Oil Shale Reserves will be integrated with FEA's strategic reserve program and emergency oil allocation functions to permit a coherent approach in national policy to meeting petroleum supply disruptions.

From the Interstate Commerce Commission

- o The pipeline valuation and rate-setting functions of the ICC for oil and coal slurry pipelines will be consolidated with the natural gas pipeline regulatory responsibilities of the FPC, permitting cohesive policies towards all pipelines that transport energy.

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From the Securities and Exchange Commission

- o All of the SEC's responsibility under the Public Utility Holding Company Act of 1935 for regulating the sale of securities and assets by companies in electric and gas utility holding company systems, their intrasystem transactions, and their service and management arrangements will be consolidated with related rate-setting responsibilities of the FPC, permitting better integration of all regulatory responsibilities relating to public utility holding companies.

From the Department of Commerce

- o The Voluntary Industrial Energy Conservation Program will be administered together with (but not necessarily integrated with) the FEA's and ERDA's efficiency standards programs permitting a less overlapping approach to the matter of efficiency standards.

From the Department of Housing and Urban Development

- o The setting of new building energy conservation performance standards established in the Energy Conservation and Production Act will be carried out in conjunction with FEA and ERDA programs aimed at improving the energy conservation performance of all buildings--commercial, industrial, residential and Government--in an integrated effort that will start to be implemented before the 1979 standards deadline. Actual implementation of the thermal efficiency program will be redelegated to HUD, under policies set by the Department of Energy.

From the Department of Agriculture

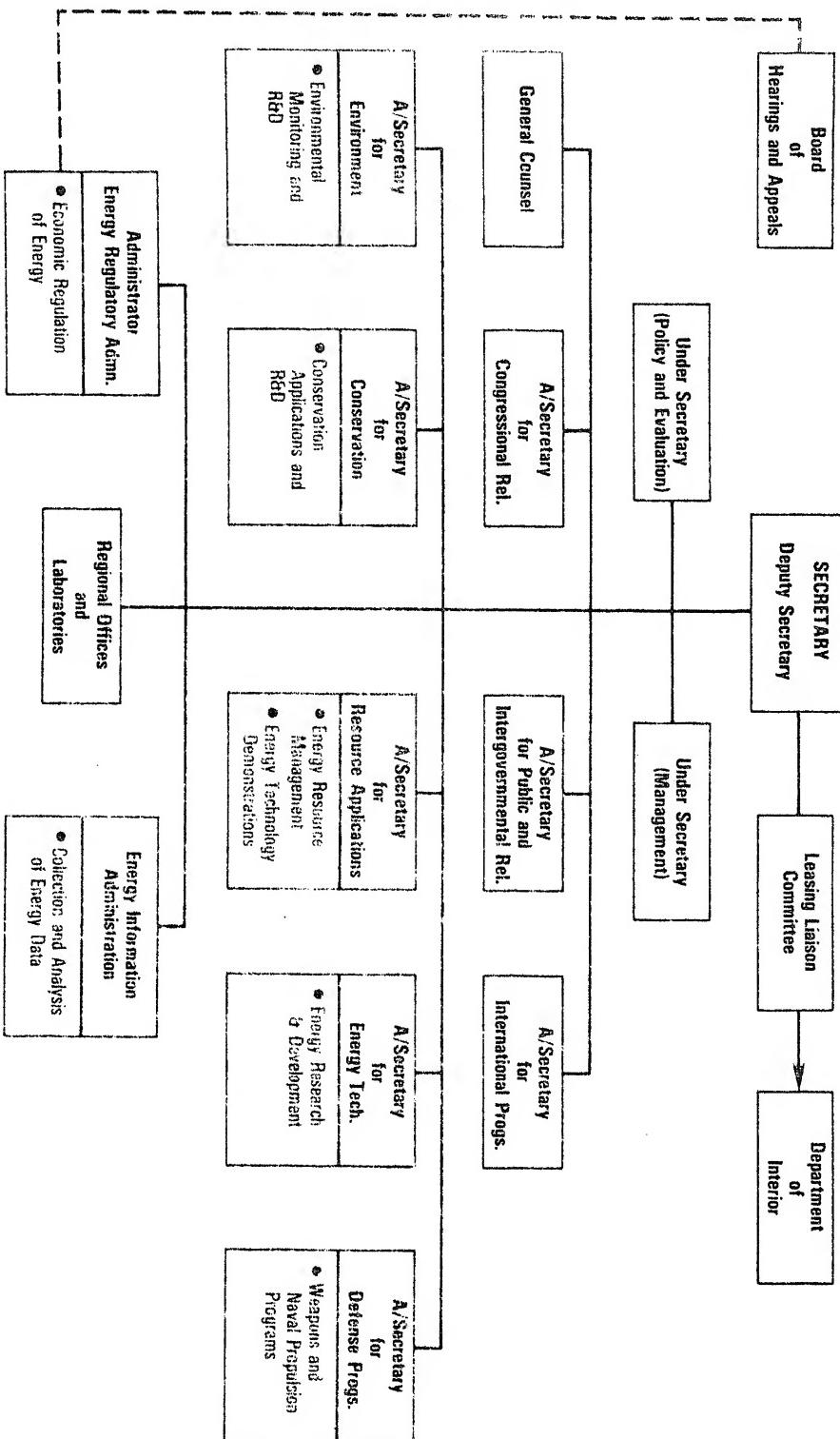
- o Prior approval of the Administrator of the Rural Electrification Administration's authority to approve loans for construction, operation, or enlargement of generating plants and electric transmission lines as systems will be managed alongside the power marketing functions of Interior and permit a more consistent Federal policy with respect to utility matters.

From the Department of Transportation

- o A right of consultation for the Secretary of Energy with the Secretary of Transportation in connection with the implementation by the Secretary of Transportation of fuel efficiency standards under the Motor Vehicle Information and Cost Savings Act.

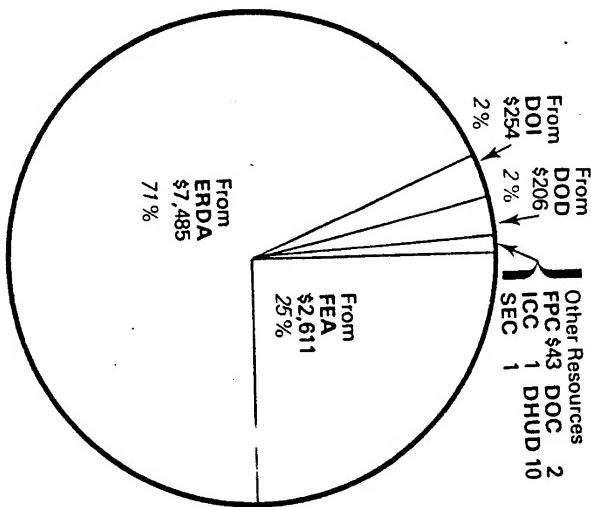
Attachment

DEPARTMENT OF ENERGY



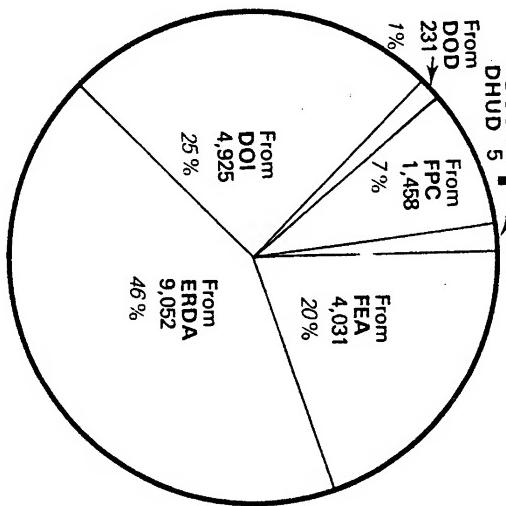
Proposed Department of Energy *Program Resources to be Transferred*

Budget Outlays * (*\$M - FY 1978 Revised*)



Total \$10,612 Million

Employment (*Full-time Permanent*)



Total 19,767 Employees

* all figures rounded

